

Attorney Docket No.: 3399P066

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application for:

Tom R. Vandermeijden et al.

Serial No.: 09/945,414

Filing Date: 08/31/2001

For: METHOD AND APPARATUS FOR
USING CALLER ID INFORMATION IN
A BROWSER OF A MOBILE
COMMUNICATION DEVICEMail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner: Elahee, MD S.

Art Unit: 2614

<u>Certificate of Transmission</u>	
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, fax number 571-273-0025, on:	
October 16, 2006	
(Date of Transmission)	
Chris Kunold	
(Printed name)	
Chris Kunold	10/16/06
(Signature)	(Date)

PETITION UNDER 37 C.F.R. 1.183 FOR SUSPENSION OF THE RULES
AND REQUEST FOR LATE ENTRY OF AMENDMENT AFTER ALLOWANCE

Sir:

Applicant respectfully submits this petition under 37 C.F.R. 1.183 to request, in the interest of justice, suspension of 37 C.F.R. 1.312 to the extent that rule prohibits filing an amendment after payment of the issue fee, and further requests entry of the amendment enclosed with this petition. Also enclosed with this petition is the required petition fee under 37 C.F.R. 1.17(f).

On 8/23/2006 Applicant filed an amendment after allowance under 37 C.F.R. 1.312, concurrently with payment of the issue fee. The PTO denied entry of the amendment, as stated in the PTO's response mailed on 9/20/2006. The only stated

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reason for denying entry of the amendment was, "For example, currently amended Claim 51 affects the scope of the invention." As explained below, Applicant respectfully submits that it was improper to deny entry of the amendment.

First, as stated in the remarks of the amendment filed on 8/23/2006, that amendment was *responsive to the Examiner's Amendment* and was only submitted for the purpose of making the dependent claims more consistent with the independent claims *as amended by Examiner's Amendment*. Although Applicant's amendment filed on 8/23/2006 (and the amendment accompanying this petition) is not believed to be essential to preserve the patentability or validity of any claim, the amendment is nonetheless considered by Applicant to be necessary to place the claims in what Applicant considers to be appropriate form to best protect the invention in view of the Examiner's Amendment. Because the amendment was therefore 'necessitated' by the Examiner's Amendment, it would not be fair to prejudice Applicant by denying entry of an amendment after allowance or by requiring Applicant to withdraw the present application from issue to have such an amendment entered.

Further, Applicant submits that the amendment filed on 8/23/2006 did *not* in fact alter the scope of any claim; it was fully consistent with the Examiner's Amendment. Moreover, only *dependent* claims were amended in that amendment. Therefore, even assuming *arguendo* the amendment altered the scope of a claim or claims, it certainly did *not* alter the scope of any *independent* claim, and therefore, it could not affect the allowability of the present application.

With the foregoing in mind, the amendment which accompanies this petition is a modified version of the amendment filed on 8/23/2006, modified in an attempt to remove any doubt that the amendment does *not* alter the scope of any claim.

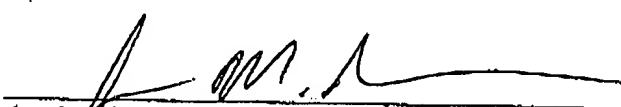
Applicant therefore respectfully submits that in the interests of justice, rule 312 should be suspended to the extent it prohibits filing an amendment after payment of the issue fee, and the amendment which accompanies this petition should therefore be entered.

If any additional fee is required, please charge deposit account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: October 16, 2006


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FEE TRANSMITTAL FOR FY 2006

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

TOTAL AMOUNT OF PAYMENT (\$) 400.00**FAX RECEIVED**

Complete if Known:

Application No. 09/045,414
 Filing Date 8/31/2001
 First Named Inventor Tom R. Vendermeijden
 Examiner Name Elaher, MD S
 Art Unit 2614
 Attorney Docket No. 3399P066

OCT 16 2006

OFFICE OF PETITIONS

Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)

☒ Deposit AccountDeposit Account Number: 02-2666

Deposit Account Name: _____

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:☒ Charge fee(s) indicated below.☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.☒ Charge fee(s) indicated below except for the filing fee☒ Credit any overpayments.☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form.
 Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Large Entity		Small Entity		Fee Description		Fees Paid (\$)
Code	Fee (\$)	Code	Fee (\$)			
1011	300	2011	150	Utility application filing fee		
1111	500	2111	250	Utility search fee	1,000/500	
1311	200	2311	100	Utility examination fee		
1012	200	2012	100	Design application filing fee		
1112	100	2112	50	Design search fee	430/215	
1312	130	2312	65	Design examination fee		
1013	200	2013	100	Plant filing fee		
1113	300	2113	150	Plant search fee	660/330	
1313	160	2313	80	Plant examination fee		
1004	300	2004	150	Reissue filing fee		
1114	500	2114	250	Reissue search fee	1,400/700	
1314	600	2314	300	Reissue examination fee		
1005	200	2005	100	Provisional application filing fee		
SUBTOTAL (1)					\$ 0.00	

2. EXCESS CLAIM FEES

		<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims	<u> </u> - 20 or HP = <u> </u>		X <u>\$50.00</u>	= <u> </u>
HP = highest number of total claims paid for, if greater than 20				
Independent Claims	<u> </u> - 3 or HP = <u> </u>		X <u>\$200.00</u>	= <u> </u>
HP = highest number of independent claims paid for, if greater than 3				
Multiple Dependent Claims	<u> </u>			= <u> </u>

<u>Large Entity</u>		<u>Small Entity</u>		
<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Description</u>
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0.00

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
<u> </u>	- 100 = <u> </u>	/ 50 = <u> </u> (round up to whole number)	X <u>\$250.00</u>	<u> </u>

<u>Large Entity</u>		<u>Small Entity</u>		
<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Description</u>
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

Fee Description: Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):

SUBTOTAL (3) \$ 0.00

FEE CALCULATION (continued)**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>	
<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Code</u>	<u>Fee (\$)</u>		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	\$400.00
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (4) \$ 400.00

*Reduced by Basic Filing Fee Paid

SUBMITTED BY:Typed or Printed Name: Jordan M. BeckerSignature: Date: October 16, 2006Reg. Number: 39,602Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450